

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**
(Special Original Jurisdiction)

PRESENT

**THE HON'BLE SRI JUSTICE B.PRAKASH RAO
and
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

WRIT PETITION No.7154 of 2006

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Date: 06.07.2006

Between:

V. Malakondaiah, S/o.Ankaiah,
Nellore.

..... PETITIONER

AND

1. The Superintending Engineer,
Rural Water Supply Schemes (RWS),
Nellor Circle, Nellore and two others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE B.PRAKASH RAO
and
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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WRIT PETITION No.7154 of 2006

ORDER (Per RR,J)

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

Aggrieved by the show cause notice, dated 24.03.2006, whereby the petitioner was informed that the Tribunal had orally ordered in reference dated 23.03.2006 to revert him, from the post of Blue Print Operator to the post of Attender, and he was called upon to show cause as to why he should not be reverted, the present writ petition is filed.

O.A.No.1943 of 2006 was filed by the petitioner against the said show cause notice dated 24.03.2006 and since no interim order was passed by the Tribunal and notice returnable in four weeks was ordered by the Tribunal, he filed the present writ petition. Initially, no interim orders were passed in the writ petition. As the petitioner had not submitted his reply to the show cause notice, a final order of reversion was passed by the first respondent on 06.04.2006. Questioning the order of reversion, dated 06.04.2006, the petitioner filed O.A.No.2304 of 2006. This Court, by order dated 05.06.2006 suspended the show cause notice dated 24.03.2006.

Sri V.Mallik, learned counsel appearing for the second respondent, would submit that consequent upon the reversion of the petitioner, the third respondent's services were also regularized and he was promoted as Blue Print Operator. Learned counsel would submit that since the petitioner herein had already been reverted even prior to interim orders being passed by this Court on 05.06.2006 and since he has already challenged the final order of reversion dated 06.04.2006 in O.A.No.2304 of 2006, the interim orders passed by this Court on 05.06.2006 suspending the show cause notice, should be vacated.

The very basis of the show cause notice is said to be the oral order of the Tribunal. Neither the Government Pleader for Services II nor the learned counsel for the third respondent is in a position to state as to what oral orders were passed by the Tribunal. It defies reason as to how a government servant should be called upon to show cause why he should not be reverted on the basis of an alleged oral order. The show cause notice does not even refer to the particulars of such an oral order or the circumstances under which such an order was said to have been made. Orders of Courts/Tribunals are speaking orders wherein reasons are assigned and are not oral. The order reverting the petitioner from the substantive post could not have been passed on such an oral order. The show cause notice dated 24.03.2006 issued on the basis of a non-existent order of the Tribunal, is clearly without jurisdiction and as such is liable to be set aside. Needless to state that since the show cause notice itself has been set aside any consequential order passed based on a non-existent order of the Tribunal would also be without jurisdiction and *ab initio* void.

The writ petition is allowed and the impugned show cause notice dated 23.02.2006 is quashed. It is however made clear that this order shall not preclude respondents 1 and 2 from taking action in accordance with law.

B.Prakash Rao, J

Ramesh Ranganathan, J

Date: 06.07.2006
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